

\* 4/15/14 \*

FLEMINGTON BOROUGH  
PLANNING/ZONING BOARD MEETING  
MONDAY, APRIL 7, 2014 – 7:00 PM

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The meeting was called to order at 7:02 PM by Board Chair Todd Cook.

**Roll Call:**

Present: Mrs. Engelhardt, Ms. Kenoyer, Mr. Greiner, Ms. Melfi, Mr. Cook, Mayor Edwards, Mr. Wachter, Mr. Budney, Attorney Gianos, Planner Hintz, Planner McManus, Engineer Clerico, Traffic Engineer Rocciola

Mrs. Pedrick entered at 7:10 p.m.

Absent: Mr. Hain

Professionals excused: None

1. **Public comments** (7:00 – 7:15 PM) None.

2. **Approval of minutes from the March 25, 2014**, regular meeting

Motion to approve: Greiner; second: Engelhardt

Ayes: Engelhardt, Greiner, Edwards, Pedrick, Budney

Nays: (None)

Abstain: Kenoyer, Melfi, Cook, Wachter

Motion passed 5-0-4

3. **Informal Discussion: Dallas-Bellin, Application 2012-04**, Block 38, Lots 3.01, 5, 6, 7, & 20 and Block 39, Lot 2 - Application withdrawn without prejudice at the applicant's request.

Mr. Cook stated that he was changing the order of the agenda items and would hear public hearing item #5 as listed on the agenda as there was legal counsel present.

4. **Public Hearing: Redevelopment Study - Inclusive of the Global Agway Site and Certain Adjacent Proximate Properties**

Mr. Hintz stated that Clarke Caton Hintz had previously looked at the Global Agway site in 2013 and that Borough Council had asked that he look at an expanded area including 42 North Main Street (Block 14 Lot 1) which included the train depot which was a historic building. Mr. Hintz displayed the study area on an aerial exhibit. Ms. McManus discussed the study "Global Agway, Preliminary Investigation For An Area In Need of Redevelopment, Flemington Borough, Hunterdon County, New Jersey" dated March 20, 2014 prepared by Clarke Caton Hintz accompanied with a power point presentation. Ms. McManus discussed the procedures to designate an area in need of redevelopment by the NJ Local Redevelopment & Housing Law including that the municipality could designate all, some or none of the properties included in the study which was delineated by Council with recommendations from the Board. Ms. McManus discussed the advantages of adopting a redevelopment plan including that the area would provide latitude on the redevelopment of the area giving the Borough flexibility in zoning and perhaps financial incentives to the property owners and/or developer. Ms. McManus stated that in 2013 the state statute was revised to have the study include whether the property would be designated condemnation or non condemnation,

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explaining that this study area was designated as a non condemnation area which would restrict the Borough from taking the property by eminent domain. Ms. McManus discussed the criteria (a) through (h) in accordance with the Local Redevelopment and Housing Law that would need to be met to designate the study area as 'an area in need of redevelopment' noting that this study recommended that two of the properties met criterion (b) which reads as follows:

*The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.*

Additionally, Ms. McManus stated that the three parcels in the study area met criterion (h) in the Local Redevelopment and Housing Law which reads as follows:

*The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.*

Ms. McManus stated that a twist to this criteria was to allow additional properties to be included if they are deemed to be key to good planning practices noting that this was not recommended in the study but could have been added. Ms. McManus discussed the location of the three parcels in the study area noting that the total area of the study was approximately 7 acres and noted that the Global Agway and Nilkanth properties were in the Transitional Commercial (TC) zone while the Single Family residence parcel was in the Professional Office (PO) zone.

Ms. McManus discussed the existing conditions of Parcel #1 identified as the Global Agway site (Block 5 Lots 1 & 2) including 2 parking areas and the four existing buildings in various states of deterioration noting that lead paint and asbestos may be present on some of the buildings which would require analysis and remediation if present and further noted that 2 of the buildings were unsecure while the northerly most building was in fair condition and occupied illegally with no current certificate of occupancy. Ms. McManus stated that the study concluded that the building conditions met criterion (b).

Ms. McManus discussed the existing conditions of Parcel #2 identified as the Single Family residence site (Block 1 Lot 13) concluding that the study does not recommend that Parcel #2 be included in the area in need of redevelopment even though it did meet criteria (h)

Ms. McManus discussed the existing conditions of Parcel #3 identified as the Flemington Nilkanth site (Block 14 Lot 1) including that the lot was not in the historic district, however, the existing train depot on the lot was considered a historic building which was in poor condition, abandoned and untenable. Ms. McManus stated that the existing warehouse building was approximately 16,400 square feet, was in a state of advanced deterioration, had been abandoned for about 16-20 years, did not have a current certificate of occupancy (CO) and would require repairs to meet the state UCC codes to obtain a new CO. Ms. McManus stated that there was a third building on the lot which had been previously demolished with only the concrete slab still remaining.

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Ms. McManus concluded that parcel #1 and #3 met criteria (b) and criteria (h) in the Local Redevelopment and Housing.

The hearing was opened to questions from the Board.

Mr. Greiner asked if the Borough could offer a PILOT program or other incentives to a developer without the designation, Mr. Hintz explained that you could not. Mr. Greiner stated that the area was a gateway to Flemington and asked about the other side of the street that was not in the study. Mr. Hintz stated that development in the northern gateway would be desirable across the street and stated that other zoning incentives could be instituted to encourage developers on the other side of the street.

Ms. Melfi clarified that the study area was not subject to eminent domain and asked to verify that the designation would not effect the current owners preliminary site plan approvals, Ms. McManus verified both comments noting that the site plan could continue to be permitted under the new redevelopment plan. Ms. Melfi asked if there was a benefit to the current owner to being in the study and if the property could become more valuable if designated in need of redevelopment. Ms. McManus stated that yes the Borough could have zoning incentives for the anticipated redevelopment and could offer financial incentives.

Mr. Budney asked about the environmental constraints on northern side of the Global Agway site. Ms. McManus stated that there were woodlands, a stream and possible wetlands noting that this study did not look at those aspects but they would be included in the next step. Mr. Budney asked if there were any potential hazardous materials on either parcel. Ms. McManus stated that she saw no questionable materials being stored on either site.

Mr. Wachter asked about the building on the Global Ag site that was being occupied illegally. Ms. McManus stated that after checking with Mr. Klein, that there was no current CO for the that building. Mr. Wachter asked what need to be done to bring the buildings up to code. Mr. Hintz stated that many of the buildings were unoccupied and would need improvements including any determined by the construction official to be made before a new CO could be issued. Mr. Cook asked if Global Ag could open even if they wanted to without making those improvements, Ms. McManus discussed the abandonment of buildings including not having electricity would trigger state UCC codes to be enforced prior to the issuance of a CO.

Mrs. Engelhardt asked to list the benefits and negatives to the existing parcel owners. Ms. McManus stated the zoning and financial incentives from the Borough could still apply to the currently approved site plan. Mrs. Engelhardt stated that the Board had suggested an even larger area to be included in the gateway area noting that that request was denied by Council and asked if there was criteria where it may apply to the single family parcel. Mr. Hintz stated that if a parcel was necessary to effectuate planning it could meet a criteria and further clarified that if parcel #2 was needed to provide access to the development or was right in the middle of the two parcels it

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might be different. Mrs. Engelhardt asked if there was a way to include the neighboring parcels, Ms. McManus stated that this was just one tool to effect planning, another would be rezoning in the area.

Ms. Melfi stated that Steve's store across the street was in common ownership with parcel #3 and thought that including Steve's store in the redevelopment area would not be hurting but helping the developer. Ms. McManus stated that the Board could rezone that area if the property does not meet the criteria. Mrs. Engelhardt commented that it would provide the owners more flexibility for their site plan. Ms. Melfi stated that the Board would have to look at the whole overall area when rezoning to avoid spot zoning. Mrs. Engelhardt stated that the Board has been struggling to have the whole area looked at in a study. Ms. McManus stated that this was not the last opportunity to look at the area.

The hearing was opened to the public for questions.

Mr. Steven Gruenberg, attorney for property owner, Flemington Nilkanth, LLC, of parcel #3 (Block 14, Lot 1) appeared before the Board. Mr. Gruenberg stated that Ms. Manus had testified that in preparing the study she had made site visits, reviewed tax records, tax liens, had contacted the construction official, Mr. Klein. Mr. Gruenberg asked if Ms. Manus had reviewed the prior site plan reports for which Nilkanth had preliminary site plan approval. Ms. McManus stated that she had reviewed the resolution. Mr. Gruenberg asked if Ms. Manus had contacted the property owners to find out the intent of what they were going to do with the buildings on site. Ms. McManus and Mr. Hintz stated that they did not contact the property owner. Mr. Gruenberg asked Ms. McManus to refer to a slide showing the train depot building and asked what deterioration Ms. McManus saw in the photo further asking if the structural condition of the foundation could be determined from the photo and if the testimony given was from the photo or from a site visit. Mr. Hintz stated that he looked at the building on a site visit. Mr. Gruenberg asked that one person testify to the photographs. Ms. McManus stated that she was not present at the site visit of parcel #3. Mr. Gruenberg asked who he should direct his questions to noting that Ms. McManus had presented the testimony. Mr. Cook stated that the study was prepared by the firm of Clarke Caton Hintz and that the testimony was from both Mr. Hintz and Ms. McManus, Mr. Hintz noted that the report was also prepared by John Hatch, AIA from Clarke Caton Hintz and that he had been on the site visit with Mr. Hatch of parcel #3. Mr. Gruenberg asked what the site visit entailed and if Mr. Hintz had been inside the buildings. Mr. Hintz stated that he had taken the photos and had not been in the building noting that they were secure. Mr. Gruenberg asked if any structural problems were in the report. Mr. Hintz stated that Mr. Hatch noted foundation and roof issues with the train depot building, Mr. Gruenberg asked if that was in the report, Mr. Hintz stated that it was not in the report, Mr. Gruenberg asked if Mr. Hintz or Mr. Hatch were structural engineers or professional engineers, Mr. Hintz replied no. Mr. Gruenberg asked how the area met criteria (b) and if the intended use of the lot was included in the criteria noting that going through the process and expense of obtaining an approved site plan showed an intended use of the lot including the relocation and revitalization of the train depot. Ms. McManus stated that the site plan showed an intent to demolish the warehouse and relocate the train depot indicating no future use of the

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warehouse. Mr. Gruenberg stated that rather than demolish the depot the applicant had listened to the desire of the Board to preserve that building and worked with the HPC to renovate it and further asked if Mr. Hintz's report stated the site plan was a good redevelopment of the site, Mr. Gruenberg cited comments from the March 28, 2012 report prepared by Mr. Hatch for the HPC and the December 2, 2011, last revised March 4, 2012 report prepared by Mr. Hintz.

Jay Makuch, 58 Broad Street, asked if it made a difference if eminent domain was included or not to meet the criteria, Ms. Manus explained it did not. Mr. Makuch asked if the redevelopment plan must include the approved plan and what happens if Nilkanth did not develop the property, could the Borough take the property. Ms. McManus stated that a new study would be required with condemnation to include eminent domain.

Lois Stewart, 26 Spring Street, asked if the wetlands on the Global Ag site were significant enough for protection. Mr. Hintz stated that the wetlands were not mapped or delineated and would need a field determination from the DEP. Ms. Melfi stated that they were studied when the town put a culvert through and that the DEP gave a permit to the Borough at that time. Ms. Stewart asked if the Nilkanth site was not included that it was not entitled to the same financial incentives. Ms. McManus explained and clarified that the Borough has the option to offer incentives but was not required to do so.

Mr. Makuch asked that if the whole town hated the site plan, if the redevelopment plan could knock it out. Mr. Gianos stated that the site plan approvals were protected and explained the extensions and the provisions of the permit extension act. Ms. Swingle, 81 Broad Street, asked how long the approval was good for, Mr. Gianos explained.

Ms. Melfi asked if the study moved on what the time frame would be for preparation of a redevelopment plan. Mr. Hintz stated that the recommendation would go next to the Council and perhaps 3-6 months for a redevelopment plan. Ms. Melfi asked if the property owners would have knowledge of the redevelopment plan once it was done. Ms. McManus stated that the owner would know. Mayor Edwards stated that the Global Ag site was in foreclosure.

Elaine Gorman, 34 New York Avenue, asked what the HPC involvement would be regarding the train depot building and how a designation would effect the decision of the HPC. Ms. McManus stated that all of the finding of the HPC would be included in the redevelopment plan.

Mrs. Engelhardt asked if Mr. Hatch as an architect was qualified to review the condition of the building and asked how long the buildings were unoccupied. Mr. Hintz explained.

Mr. Gruenberg and the Board discussed whether the buildings were readily tenantable.

The hearing was opened up to comments from the public.

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Mr. Gruenberg stated the reasons why the applicant was objecting to being included in the study area noting that the applicant had worked with the Board, the Board's professionals and the HPC to come up with a plan that had no variances and had spent over \$20,000 for the Board's professional review alone. Mr. Gruenberg stated that the new statute declaring an area for condemnation or non-condemnation was untested and did not make clear what the Borough could do in the future. Mr. Gruenberg stated the applicant's intention to build and noted their concerns regarding the money invested so far stating that the town would have to redo what they had already done and the applicant may be back to square one with an uncertainty of whether there may or may not be grant money. Mr. Gruenberg stated that the applicant has indicated that they do not want to be part of the plan.

Mr. Cook stated that the plans show that the buildings are going to be demolished. Mr. Gruenberg stated that while they have different plans for the building, the building still did not meet the criteria and that the Board did not provide any testimony from a structural engineer.

Mrs. Engelhardt asked Nilkanth to come to the Board and talk to them noting that the applicants had a reputation for not responding to requests to talk to the Borough. Mr. Gruenberg stated that anytime he has been notified, he has met with the Borough and that he had met several times a year.

Mr. Gruenberg introduced structural engineer, Eric Rupnarain, P.E. for testimony. Mr. Rupnarain was sworn in for testimony, Mr. Gianos stated that Mr. Rupnarain had been previously accepted as a structural engineer and should be accepted as same. Mr. Rupnarain stated that he made a site visit today which included inspections outside and inside the buildings and found no differential settlements in the train depot building, there were some holes in the floor and mortar deterioration but found the overall building sound noting that the site plan proposed that the train depot be moved (not reconstructed) on the site. Mr. Rupnarain stated that the warehouse building was in better condition, noting the cracks were not significant with the trusses in good conditions.

Mr. Budney asked if the applicant went to the construction official what efforts would need to be made to make the building tenantable and whether any site work would be required. Mr. Rupnarain stated that electric, plumbing, roof inspection/repairs along with some ramping to make the building ADA compliant would be necessary. Mr. Gruenberg stated that they were not looking to rehabilitate the warehouse building, and were developing the site where that would not make sense.

Lois Stewart, 26 Spring Street, encouraged the Board that Parcel #3 (Block 14, Lot 1) not be included in the redevelopment plan.

Motion to close the public hearing: Melfi; second: Engelhardt  
Ayes: Engelhardt, Kenoyer, Greiner, Melfi, Cook, Edwards, Pedrick, Wachter, Budney  
Nays: (None)  
Abstain: (None)

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Mr. Greiner asked if the Board could look at the single family parcel. Ms. Melfi stated the Board should respect the recommendations of the study. The Board discussed the recommendations and the criteria as well as the opportunity provided for better planning and options for that area.

Mr. Gianos stated that criteria (b) states that the discontinuance of the building...or (not and)... to be untenable, stating that the building did not have to meet all of those descriptions.

Mr. Greiner stated that in regards to Mr. Gruenberg's concerns about future condemnation of the property that it was not the intent of the Council to seek condemnation and he saw benefits for the property owner to be in the redevelopment area.

Motion to approve the study with the recommendations: Melfi; second: Budney  
Ayes: Engelhardt, Kenoyer, Greiner, Melfi, Cook, Edwards, Pedrick, Wachter, Budney  
Nays: (None)  
Abstain: (None)  
Motion passed: 9-0-0

Mr. Cook stated that he was changing the order of the agenda items and would hear discussion item #6 as listed on the agenda and that the Board would take a ten minute break.

9:05 p.m. the Board took a break.

9:15 p.m. the Board reconvened.

**5. Discussion: Streetscape Plan Prepared by Maser Consulting Engineers for the Flemington Business District Board of Trustees**

Jeffrey Fleisher, director of planning and recruitment for the FBID appeared and introduced Marla Roller, P.P. from Maser Consulting Engineers. Mr. Fleisher stated that the FBID had approached Maser Consulting to ask them what could be done to revitalize the downtown business district in Flemington and contracted Maser to prepare a report and design plans including paving, lighting, signage, etc for the downtown Flemington Streetscape.

Ms. Roller stated that a grant opportunity from NJDOT was available and that grant money only became available periodically further noting that only a municipality was eligible to apply for the grant. Ms. Roller stated that the FBID was paying Maser to prepare the grant along with the concept plan for a downtown streetscape and gateway properties to get people off of Route 31 this plan would be non-binding to the town. Ms. Roller stated the NJDOT later disclosed that the grant was for a maximum of one million where the proposed concept plan had a cost estimate that would be 3.5 million to complete the entire plan as shown and suggested that the grant include a section from Bloomfield Avenue to Mine Street noting that they could apply for future grants section by

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section as grant money became available. Ms. Roller explained that the danger in asking for more than the 1 million was that if the plan was approved the town would be responsible for the balance of the cost, that the grant was provided on a all or nothing basis.

Mayor Edwards asked if the Borough would be required to match the grant, Ms. Roller stated that no match was required.

Ms. Melfi asked if the DOT was looking for towns that were ready to build with completely engineered plans. Ms. Roller stated that the grant criteria was to have a concept of what you wanted and DOT wanted to see that the money would be well spent and that the state wanted to see projects constructed.

Mr. Cook asked if there was a way to start small, Ms. Roller stated that no one knows but thought that they had a strong application. Mr. Greiner stated that the recent redevelopment studies would indicate to the state that the Borough was actively planning.

Mr. Wachter stated that a lot has been done downtown in the last 5 years with benches and litter cans and stated his concerns of repeating the effort and cost for just a little different look.

Mrs. Engelhardt stated that the purpose of the Board was to make sure a plan was consistent with good designs that were in place already and asked if the Master Plan included specifications to make sure the streetscape plan was continuing design standards that had been started.

Ms. Melfi asked if the plans had been submitted to the County, Ms. Roller stated no, Ms. Melfi suggested presenting the plan to the County could make the grant bid more successful.

Mr. Wachter suggested some grant money be used to repair instead replace the fine iron grill works and finials missing around town. Ms. Roller stated that the plan would not get rid of the existing architectural details.

Mr. Cook stated streetscape specifications were included in the Master Plan and noted the original lights that were replaced by the County did not meet those specifications and should be replaced. Ms. Roller stated that this was an opportunity to oversee the plan including those details noting that the focus was to secure the grant money first and could then go through the design criteria.

Mr. Greiner asked if it would better to reduce the intensity in the Bloomfield Avenue to Mine Street and spread the construction over a larger area noting his concern that once you do one section the Borough would be forced to extend it further whether there was grant money or not.

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Mrs. Engelhardt stated that it would be construction efficient section by section.

Mr. Cook stated that what was on the table was to support a streetscape not about how it got the Board noting that it would great to get money to support the improvements.

Mr. Greiner stated that he would take the recommendation of the Board to the next Council meeting and clarified that the Board was recommending the complete improvement of the section along Main Street from Bloomfield Avenue to Mine street.

Mr. Clerico asked if the underground wiring was included in the grant, Ms. Roller stated that she would look into that and if the wires could not be placed underground now whether the conduit could be put in place for the future.

Mr. Greiner asked if other towns have successfully done streetscapes section by section. Mr. Hintz stated that Hackettstown and Washington Borough had completed section by section.

Mayor Edwards stated that completing one section would give the incentive for the state to grant further funding and asked if soft costs could be included. Ms. Roller stated that it could or not include soft costs and would check if the estimate included those soft costs or not.

Chris Engelhardt, 180 Main Street, asked if the plan included ADA elements, Ms. Roller stated that yes everything would be ADA compliant.

Mr. Greiner stated he would bring the recommendations to Council.

Mr. Cook stated that though it was getting late he would like to begin the discussion of the Terranoble presentation especially since a developer was asked to appear to answer questions from the Board.

**6. Discussion: 'Downtown Strategic Plan Report' prepared by Tim Delorm of Terra Noble Design, PA as presented at the joint meeting held on February 25, 2014**

Jeff Fleisher, director of planning and recruitment for the FBID appeared and introduced David Trager of Woodmont Properties, Mr. Trager stated that his job was to research and acquire properties for development noting that his company was active in New Jersey and Pennsylvania looking for both suburban and infill areas in small towns such as Morristown, Cranford, Red Bank and Metuchen while keeping in context within the community and try to retain the character of each town. Mr. Trager stated that an asset for Flemington was the historic character while pointing out that the town was not transit centric but rather relied on highways.

Mr. Cook asked what Mr. Trager looked for in a community. Mr. Trager stated that a consistent message from both the governing body and the planning board regarding development with a

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predictability was what they looked for noting that they didn't want to have to fight to develop a property which causes delays and expense. Mr. Cook asked what type of properties were the most profitable for him, Mr. Trager stated that residential rental units were their focus with no fewer than 100 units with a modest rental price.

Mr. Budney asked if Woodmont Properties renovated buildings. Mr. Trager answered that it was usually ground up construction and would raze buildings if required.

Mr. Greiner asked if there was a county wide problem for developers in Hunterdon. Mr. Trager stated that the closest property they developed was in Bridgewater and noted that his focus was on transit oriented locations which Flemington was not and noted that Hunterdon had mostly for-sale housing with very little rental units.

Mr. Cook asked where the opportunities were in Flemington. Mr. Trager stated that he would ideally be looking for a 200 unit location which would probably be the northern Main Street area and/or Turntable Junction.

Mrs. Engelhardt asked if mixed use was beneficial. Mr. Trager stated that mixed use was more expensive to build but can work when location was right such as Red Bank and Morristown. Mrs. Engelhardt asked which was better in Mr. Trager's view: having flexibility in zoning or having a strictly defined Master Plan. Mr. Trager stated that early direction from the town was what he looked for noting that no consensus on a Board was a problem.

Ms. Melfi asked if Woodmont Properties owned their properties. Mr. Trager stated that they own and manage all properties and was all done in house including the property management. Ms. Melfi asked if they built COAH units, Mr. Trager stated that they complied with COAH both on-site and off-site.

Mr. Budney asked what density was the most beneficial to Woodmont Properties. Mr. Trager stated that it varied from 10 units per acre to 60 units per acre noting that a structure parking lot was very expensive requiring a higher density. Mr. Budney asked what the threshold was for a structured parking deck. Mr. Trager stated 40 units per acre.

Mrs. Engelhardt stated that another criticism of this Board was that it takes too long to get through the approval process and asked how long a development generally took from concept to getting a spade in the ground. Mr. Trager stated that generally 2 years and noted that Pennsylvania was generally a shorter period of time.

Mr. Trager stated that everything that they have approvals for have been built.

Mr. Cook thanked Mr. Trager for coming tonight and for his input and stated that the discussion of the Terranoble presentation would be continued to the next meeting on April 29, 2014.

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7. **Council Items:** None

8. **Chair items:**

Mr. Cook stated that the discussion of the Terranoble presentation would continue at the April 29, 2014 meeting noting that there was also an HPC application.

9. **Bills:**

Motion to approve: Greiner; second: Engelhardt  
Ayes: All were in favor  
Nays: (None)  
Motion passed 9-0-0

10. **Adjourn**

Motion to adjourn at 10:32 p.m.: Melfi; second: Engelhardt  
Ayes: All were in favor  
Nays: (None)  
Motion passed 9-0-0

Respectfully submitted

Eileen Parks  
Planning Board Secretary

These minutes were approved on April 29, 2014